UNITED STATES DISTRICT COURT
DISTRICT COURT OF SOUTH DAKOTA
WESTERN DIVISION

FILED
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CLERK

TRACEY LEHL, Plaintiff, v. TERRY HOFER, as Special Administrator of the Estate of Kenneth A. Wilcox, Deceased, Defendant.	)	Case No. 13-5080 **COMPLAINT**

Plaintiff pleads as follows:

1. Plaintiff is a citizen of the State of Nebraska. Kenneth A. Wilcox was a citizen of the State of South Dakota at the time of his death as is Defendant's Special Administrator.

2. Jurisdiction in this Court pursuant to 28 USC 1332 is proper as there is complete diversity of citizenship and the matter in controversy exceeds the sum of $75,000 exclusive of interest and costs.

3. On August 11, 2011 at approximately 3:15 p.m., Plaintiff was injured in a motor vehicle accident when Kenneth A. Wilcox pulled out immediately in front of the motorcycle Plaintiff was operating.

4. The accident occurred at the intersection of Jensen Highway and 5th Street within the City of Hot Springs, South Dakota. Mr. Wilcox advised the investigating officer that he did not see the motorcycle coming when he pulled out from the stop sign on 5th Street onto Jensen Highway. Mr. Wilcox was charged with failure to yield in

violation of SDCL § 32-26-14. Mr. Wilcox entered a guilty plea to the charge on September 7, 2011.

5. As a result of the accident, Tracey Lehl suffered a left frontal parietal skull fracture and concussion; a large comminuted fracture involving the right lateral iliac wing extending down to the acetabular level with some displacement and distraction of multiple fragments; a puncture wound and soft tissue contusion of the right elbow; impact to his jaw; multiple surface abrasions involving the forearms, left hand and hip and buttock area; loss of hearing in his left ear; trauma to his left jaw and rupture of a small vessel in his left eye.

6. Now more than two years post-accident, Tracey Lehl continues to walk with the assistance of a cane. He experiences chronic pain and continues to have loss of hearing in his left ear. Mr. Lehl has a non-union fracture of the wing of the right pelvis which is a permanent disabling condition.

7. Tracey, who has a GED and whose previous employment history consists of work in the construction industry and as a welder, is unable to be gainfully employed.

8. As a direct and proximate result of Decedent's negligence, Mr. Lehl has sustained permanent injury and loss of income, has incurred and will incur in the future, medical expenses, as well as pain and suffering, mental distress and loss of enjoyment of life.

WHEREFORE, Plaintiff prays as follows:

1. For a money judgment against Defendant in an amount to be determined by the jury;

2. For costs and disbursements herein;

3. For such other and further relief as the Court shall deem just and meet in the premises.

Dated this 8 day of November, 2013.

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TRIAL BY JURY IS DEMANDED